

Dear Town of Sanbornton Planning Board,

We are requesting waivers for the following provisions of the Sanbornton Site Plan Review Regulations (the “SPR”) in connection with our Application for Site Plan Review for 996, 998, 1000, and 1002 Laconia Road, Sanbornton, New Hampshire 03269 Tax Map 45/Lots 22-001, 002, 003, and 004.

RSA 674:44, III states “site plan review regulations which the planning board adopts shall: (e) [i]nclude provision for waiver of any portion of the regulations. The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that: (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or (2) Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.”

SPR Section VII states that “[t]he Planning Board may waive requirements listed in the Site Plan Review Regulations where it finds that such regulation does not apply to the proposed development, or in cases where, in the opinion of the Board, strict conformity would impose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the Site Plan Review Regulations.”

The Winnisquam Professional Retail Center Condominium Association’s (the “Association”) Site Plan Application proposal is for the approval of mixed-use occupancy of residential and commercial use. Previously, the Association applied for and was unanimously granted a variance from Article 10.A, Section 1 and 2 of the Sanbornton Zoning Ordinance (the “Zoning Ordinance”), allowing for mixed-use occupancy of residential and commercial use. As you know, both commercial use and residential use, including multiple family dwellings, are permitted as individual uses in the commercial district. In addition, the Zoning Board of Adjustment as part of their approval of the variance stated that the previous Planning Board Chair, Don Bormes, had joined onto an amendment to the Condominium Instruments allowing residential units in 2011, leading the owners to believe they could proceed with changes.

With this Application, the owners of Unit 1 located at 996 Laconia Road (Tax Map 45, Lot 22-001) and Unit 3 located at 1000 Laconia Road (Tax Map 24, Lot 22-003) (hereinafter referred to as the “Proposed Residential Units”) seek approval of the current and proposed residential use, respectively, for their Units, while Unit 2 located at 998 Laconia Road (Tax Map 45, Lot 22-002) and Unit 4 located at 1002 (Laconia Road (Tax Map 24, Lot 22-004) are not undergoing and have not undergone any change in their commercial use. This approval would permit the building at the Condominium to continue as a mixed-use building of residential and commercial use.

The Floor Plans entitled “Business Condo Conversion, 996 Laconia Road, Sanbornton, NH 03269” (hereinafter referred to as “Unit 1 Floor Plans”) and “Business Condo Conversion, 1000 Laconia Road, Sanbornton, NH 03269” (hereinafter referred to as “Unit 3 Floor Plans”) (the Unit 1 Floor Plans and Unit 3 Floor Plans are collectively referred to herein as the “Floor Plans”) relate solely to the interior of Units 1 and 3 respectively, and address the proposed changes relevant to this Application. There are no proposed changes which pertain to the exterior of the structure or other exterior conditions of the land which is part of the Condominium. SPR Section III(A)(2) states that “all projects shall submit . . . [a] site Plan (prepared by a licensed professional engineer or landscape architect):”. Because this Application’s proposal pertains solely to the interior of the Proposed Residential Units, SPR Section III A.2 regarding site plan preparation by a licensed professional engineer or landscape architect, is not applicable as it does not apply to the proposed development.

In addition, strict conformance with the provisions of the SPR would impose an unnecessary hardship to the applicant, and waiver of the provisions discussed herein would not be contrary to the spirit and intent of the SPR. The added costs and timeline required to undertake strict compliance with requirements involving or otherwise related to submission of a new Site Plan would constitute an unnecessary hardship, and the redundancy of the submission to the Planning Board of exterior plans is more likely to be contrary to the spirit of the SPR than permitting a waiver of this requirement in this instance. This is in line with statements made by members of the Planning Board during the Planning Board Meeting on Thursday, April 20th, 2023, where “Kalena [Graham] stated that she is comfortable seeing the site plan already recorded in the Registry of Deeds for the outside of the building but would want to see an interior plan and the other [members] agreed.”

In place of a new Site Plan prepared by a licensed professional engineer or landscape architect, as indicated by the Planning board during the Planning Board Meeting on Thursday, April 20th, 2023, the applicant has enclosed herewith copies of the aforementioned Floor Plans for Units 1 and 3, the previously approved Site Plan for the Condominium entitled “Site Plan Winnisquam Professional Retail Center – A Condominium Prepared For: James French and David Ames PO Box 383, Rt. 3 Winnisquam, NH 03289, Sanbornton, Belknap Co., N.H” approved by the Sanbornton Planning Board on December 16, 1999 and recorded in the Belknap County Registry of Deeds on December 21, 1999 at Plan Drawer L33, Page 65 (the “Existing Site Plan”), and a certain Boundary Line Adjustment Plan recorded contemporaneously with said Existing Site Plan entitled “Boundary Line Adjustment Winnisquam Professional Retail Center – A Condominium” recorded in the Belknap County Registry of Deeds at Plan Drawer L33, Page 64 (the “Boundary Line Adjustment Plan”). Such plans, particularly the Existing Site Plan, and our Application for Site Plan Review, address many of the submission requirements and guidelines outlined in SPR Section III(A)(2). To the extent information described under SPR Section III(A)(2) is not included, we request waivers to such provisions as they are not applicable to the proposed development.

SPR Section IV includes a number of additional provisions that are not applicable to the proposed development, or which are otherwise likely covered by the aforementioned plans. The following provisions of Section IV(A) are not applicable to the proposed development for the following reasons:

- SPR Section IV(A)(1) requiring a “[p]lan of site (to scale) showing property, existing natural features including water courses and water bodies, trees and other vegetation, topographical features and other features which should be considered in the site design process” is not applicable because there are no proposed changes outside of the Proposed Residential Units, and such provision has no bearing on the approval of the of mixed use of residential and commercial use at the Condominium.
- SPR Section IV(A)(2) requiring the “[l]ocation of all buildings with their type, size, location (setbacks), and elevation of first floor indicated (assume permanent on-site elevation)” is not applicable to the proposed development as there are no changes being made to the structure of the existing building comprising the Units at the Condominium as shown on the Existing Site Plan. Said structure has not moved, is not proposed to be moved, and is not proposed to be expanded. All proposed changes are addressed in the Floor Plans and are related to the development of the interior of the Proposed Residential Units as described herein.
- SPR Section IV(A)(3) regarding an “elevation view or photograph of all buildings (existing and proposed) indicating the height of the highest roofline” is not applicable to the proposed development as the existing building and the height of the highest roofline were already approved by the Planning Board when the lot previously went through site plan and subdivision approval, and no changes to the exterior of the building or its height are proposed. To the extent such information is required, a photo of the existing building housing the Condominium Units has been included in this application, and the height of the building is approximately thirty-one (31’) feet from grade to the ridge.
- SPR Section IV(A)(4) regarding the “location and dimensions of all non-vehicular paved areas such as walkways and patios” is not applicable to the proposed development as there are no proposed changes outside of the Proposed Residential Units, such provision has no bearing on the approval of the of mixed use of residential and commercial use at the Condominium, and any existing non-vehicular paved areas were approved by the Planning Board when the lot previously went through site plan and subdivision approval.
- SPR Section IV(A)(5) requires applicants to provide information regarding the location, width, type of paving and curbing for all access ways and egress ways

(driveways), plus off-street parking and loading spaces with a layout of parking indicated. As with other subsections of SPR Section IV, there are no proposed changes outside of the Proposed Residential Units. The Existing Site Plan, which was previously approved by the Planning Board when the property underwent site plan and subdivision approval previously, displays the existing paved parking areas, paved driveway, limited common area parking spaces appurtenant to each unit, and other off street parking and loading spaces. Based upon the applicant's knowledge, there are approximately forty-five (45) to forty-eight (48) total parking spaces available on the paved areas of the lot. In addition, there is additional space for parking directly behind the building in the field at the rear of the lot. Out of the total number of parking spots, there are approximately three (3) parking spaces designated as limited common area behind each Unit, meaning approximately twelve (12) parking spaces are designated as limited common area. These limited common area spaces provide each Unit Owner with their own loading spaces.

- To the extent information is required regarding SPR Section IV(A)(6), the type and location of solid waste disposal facilities, there are two dumpsters located on the property, each of which are located on the northeast corner of the existing paved area.
- SPR Section IV(A)(7) regarding the "location, size, and design of proposed signs and other advertising or instructional devices" is not applicable to the proposed development as there are no plans to add to or otherwise change the existing approved signage at the property.
- SPR Section IV(A)(8) regarding the "location and type of lighting for all outdoor facilities, including direction and area of illumination" is not applicable to the proposed development as there are no proposed changes outside of the Proposed Residential Units.
- SPR Section IV(A)(9) regarding "[l]ines of all existing adjoining streets" is described by the Existing Site Plan. In addition, a satellite photograph of the property depicting the existing and adjoining streets has been included with this application.
- SPR Section IV(A)(10) regarding the "[t]he size and location of water supply and sewage facilities and provisions for future expansion of sewage and water facilities, and all distances from existing water and sewage facilities on the site and on abutting properties to a distance of 200 feet" is not applicable as there is no proposed change to or expansion of the sewage and water facilities, and the existing water supply and sewage facilities were approved when the lot previously went through site plan and subdivision approval. By way of further answer, the well is located near the northeast boundary of the lot, directly east of the paved area behind the building as depicted on

the Existing Site Plan. The location of the sewer line is more particularly described in a certain easement deed recorded at Book 1093, Page 842 in the Belknap County Registry of Deeds. According to the NH DES Well Water Report the well has a tested yield of six (6) gallons per minute, meaning it has an approximate flow rate of 8,640 gallons per day. The sewer line is connected to the Winnepesaukee River Sewer line in Route 3 in Sanbornton and Tilton, New Hampshire.

- SPR Section IV(A)(11) regarding the “location, elevation and layout of catch basins, storm drains, and other surface drainage features which provide for retention or slow release or storm water and/or ground water recharge” is not applicable to the proposed development because there are no proposed changes outside of the Proposed Residential Units.
- SPR Section IV(A)(12) regarding the “location of areas dedicated to plowed snow storage which do not conflict with pedestrian/vehicular traffic, parking, landscaping and surface drainage” is not applicable to the proposed development as there are no proposed changes to the existing parking, landscaping, or surface drainage. The proposed changes are solely related to the interior of the Proposed Residential Units, and the approval of mixed use of residential and commercial use at the Condominium will not affect existing practices for plowed snow storage at the property.
- SPR Section IV(A)(13) regarding the “existing and proposed contours and finished grade elevation” is not applicable to the proposed development as there are no proposed changes outside of the Proposed Residential Units and the same were previously approved by the Planning Board when the lot previously went through site plan and subdivision approval.
- SPR Section IV(A)(14) regarding the “type, extent and location of existing and proposed landscaping and open areas indicating what existing landscaping and open areas will be retained” is not applicable to the proposed development as there are no proposed changes to outside of the Proposed Residential Units.
- SPR Section IV(A)(15) regarding the “size and location of all overhead and underground public service connections such as; gas, power, telephone and fire alarm” is not applicable to the proposed development as there are no proposed changes to the existing public service connections.
- SPR Section IV(A)(16) regarding the submission of a boundary survey prepared and stamped by a licensed land surveyor is not applicable to the proposed development as the property boundaries are not proposed to be changed.

With regard to the general standards described in SPR Section V, each such standard is either addressed in another portion of the application, or is related to the non-applicability of the exterior design standards because there are no proposed changes being made outside of the Proposed Residential Units. More particularly, SPR Section V(A)–(C), (E)–(G), and (I)–(J) all either relate to existing conditions outside of the Proposed Residential Units which have already been approved by the Planning Board when the lot previously went through site plan and subdivision approval, or relate to the discretionary studies which may be required by the Planning Board. Subsections (D) and (H) relate to parking, loading, and pedestrian safety, and water supply and sewage disposal respectively, which are already addressed herein.

In addition to the above waiver requests and additional information provided, Steve Laurin mentioned that the Planning Board would consider whether the applicant needs a Conditional Use Permit for the proposed use in the Aquifer Conservation district as described in Article 12.J of the Zoning Ordinance. Article 12.H of the Zoning Ordinance states in pertinent part “[a]ll uses permitted by right or allowed by special exception in the underlying district are permitted in the Aquifer Conservation District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Article L.” Article 12.I describes uses which are explicitly prohibited in the Aquifer Conservation District, none of which are implicated by the proposed development. In addition, Article 12.J states that the Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted in the underlying district, if the permitted use implicates any of the items described in Article 12.J (1)–(3). Here, the proposed development does not implicate any of the uses described in Article 12.J (1)–(3). Lastly, the performance standards described in Article 12.F are not implicated by the proposed use. As stated previously, the proposed development does not include any changes outside of the Proposed Residential Units, and the existing exterior conditions were previously approved by the Planning Board when the lot previously went through site plan and subdivision approval. Therefore, a Conditional Use Permit is likely unnecessary for the approval of mixed-use occupancy of residential and commercial use.

Lastly, New Hampshire is suffering from an affordable housing shortage. Such need to provide and maintain affordable housing is discussed in the Town’s own Master Plan. Section I. B. of the Town’s Master Plan states that the town subscribes to certain guiding principles, including encouraging the provision and maintenance of an adequate and affordable housing supply. *Sanbornton Master Plan 2012* (including Economic Development Chapter, added in 2016), at 10.